



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/706,965
Applicant(s) : Kiani et al.
Filed : November 6, 2000
TC/A.U. : 3736
Examiner : Matthew J. Kremer

Confirmation No. : 8509

Docket No. : MLABS.018C3
Customer No. : 20,995

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

TECHNOLOGY CENTER R3700

RECEIVED
AUG 05 2003

DECLARATION UNDER 37 C.F.R. § 1.131

Dear Sir:

1. This declaration is to establish the status of the invention in the above-captioned U.S. Patent Application prior to December 31, 1991, which is before the effective filing date of U.S. Patent No. 5,372,135, issued on December 13, 1994 to Mendelson et al.

2. I am one of the named inventors of the described subject matter and all claims in the above-captioned U.S. Patent Application Serial No. 09/706,965 ("the '965 application"), filed November 6, 2000, titled "*Active Pulse Blood Constituent Monitoring*". The '965 application claims a priority benefit to, among other applications, U.S. Patent Application Serial No. 08/482,071, filed June 7, 1995, titled "*Active Pulse Blood Constituent Monitoring*," now U.S. Patent 5,638,816 ("the Parent application").

3. I hereby declare that prior to December 31, 1991, I conceived an active pulse blood constituent monitoring system such as the device described and claimed in the '965 patent application.

4. Since that time, I continuously worked toward reducing the constituent monitoring system to practice.

Application No. : 09/706,965

5. Evidence of the conception is set forth in Exhibit A attached hereto with dates obscured.

6. I hereby declare that acts leading to the reduction to practice of the subject matter claimed in the '965 patent application were performed in the United States.

7. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent resulting therefrom.

Dated: July-28-2003

By:

Mohamed Kheir Diab
Mohamed Kheir Diab

H:\DOCS\JMG\JMG-4974.DOC
072803

Exhibit A

2 Copies of Executed Page 27 of Lab Notebook

Proj ct No. _____

Bo k No. _____

TITLE _____

From Page No. _____

low plethysmographic waveform (2-3 steps on 1200) cannot give a
Reading.

skin temperature

Digit ~~test~~ kit
finger
Tourniquet

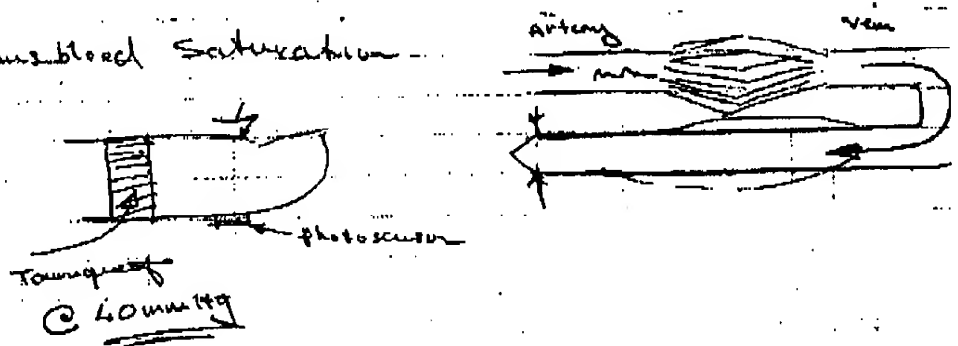
Measurement of venous blood Saturation

Using a tourniquet

~~with~~ inflated

to 40 mmHg will partially

block the Venous blood return path. the increase in Light absorption due
to accumulation of venous blood is measured @ two or more wave lengths



To Page N

Witnessed & Understood by me,

Date

Invented by

Recorded by

Date

✓

Pr ject No. _____

Book No. _____

27

Page No. _____

Local plethysmographic waveform (2-3 steps on 1200) cannot give oxygen Reading.

- skin temperature.
- Digit ~~kit~~ kit
~~Ring~~
~~Temperature~~

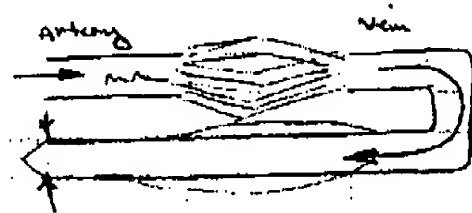
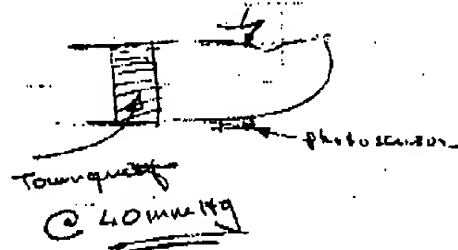
Measurement of venous blood Saturation

ing a tourniquet

is inflated

40 mmHg will partially

occlude the venous blood return path. the increase in light absorption due accumulation of venous blood is measured @ two or more wave lengths.



To Page No. _____

Used & Understood by me,

Date

Invented by

Recorded by

Date